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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,132	05/24/2000	Rainer H Wischinski	SAA-39	5531

7590

07/11/2003

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EXAMINER

PHAM, THOMAS K

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 07/11/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/578,132

Applicant(s)

WISCHINSKI, RAINER H

Examiner

Thomas K Pham

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

### **DETAILED ACTION**

1. The text of those section of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Neeson et al (5,786,998).
3. Claims 3, 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neeson in view of Ogushi et al U.S. Publication 2002/0029086.
4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neeson in view of Ogushi and further in view of Babu et al. (6,122,639).
5. The rejection applied in the previous office action is incorporated by reference.

### ***Response to Arguments***

6. Applicant's arguments filed 05 May 2003 have been fully considered but they are not persuasive.
7. In the remark, applicants argued in substance that (1) nowhere does Neeson et al disclose that ALERTS compares installed equipment with available equipment and then makes an offer to upgrade installed device components.
8. As to point (1) the Examiner disagrees because Neeson discloses in col. 4 lines 22-27 states that a comparison device is comparing equipment ID information in the temporary information storage device with the equipment ID information in the equipment ID information

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storage device of a standard or specific locomotive. Furthermore, Neeson discloses in col. 8 lines 24-41 that ALERTS provides updates to customers about the equipments then it is up to the customers to decide whether an upgrade any of the installed equipment based on the information provided.

9. In response to applicant's argument (2) that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ogushi with Neeson because it would provide for controlling the components with a programmable controller in order to manage the automation process dynamically and effectively.

10. In the remark, applicants argued in substance that (3) Applicant's attorney has reviewed the cited locations and cannot find there any teaching or suggestion of maintaining a *record of requests for information made about a topic*, thereby providing feedback on the useability of products.

11. As to point (3) the Examiner disagrees because Ogushi discloses on page 3 paragraph 46 and 47 that the trouble database is keeping a record of all requested information entered either manually or automatically about a trouble topic for a product and also providing the user with operation guide of how to effectively operate the product.

*Conclusion*

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thomas Pham; whose telephone number is (703) 305-7587 and fax number is (703) 746-8874. The examiner can normally be reached on Monday-Thursday and every other Friday from 7:30AM- 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Anil Khatri*, can be reached on (703) 305-0282 or via e-mail addressed to [anil.khatri@uspto.gov].

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thomas K. Pham  
*Patent Examiner*

tp  
July 8, 2003

  
PAUL P. GORDON  
PRIMARY EXAMINER